

## **EXHIBIT G**

**FILED**  
San Francisco County Superior Court  
AUG 25 1998  
BY: ALAN CARLSON, Clerk  
Deputy Clerk

LOUISE H. RENNE, State Bar #36508  
City Attorney  
DAN MAGUIRE, State Bar #56282  
DAVID BENJAMIN, State Bar #78721  
Deputy City Attorneys  
Fox Plaza  
1390 Market Street, Suite 250  
San Francisco, California 94102-5408  
Telephone: (415) 554-3900  
Facsimile: (415) 554-3985

Attorneys for Respondent Retirement Board

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO

WILLIAM R. SETZLER,

Petitioner,

vs.

RETIREMENT BOARD OF THE CITY  
AND COUNTY OF SAN FRANCISCO,

Respondent.

Case No. 979587

**STATEMENT OF DECISION AND  
ORDER DENYING PETITION FOR  
WRIT OF MANDATE**

Hearing Date: August 14, 1998  
Hearing Judge: Hon. R. Williamson  
Time: 9:30 a.m.  
Place: Dept. 302

This matter came regularly before this court for hearing on August 14, 1998. Michael Hebel, Esq. appeared for petitioner. Louise H. Renne, City Attorney, by David Benjamin, Deputy City Attorney, appeared for respondent. The record of the administrative proceedings having been received into evidence and examined by the court, arguments having been presented, the court having exercised its independent judgment in reviewing the record, and the matter having been submitted for decision, the court hereby issues its Statement of Decision:

The record has been corrected. This Court remanded the matter to the administrative law judge who conducted the administrative hearing to identify Exhibit 8, and then to the Retirement Board to view Exhibit 8 and reconsider its prior ruling. On May 22, 1998, administrative law Judge Stewart Judson identified the videotape presented to him as Exhibit 8, the videotape

1 introduced into evidence at the administrative hearing on June 7, 1994. On June 9, 1998,  
2 respondent Retirement Board viewed Exhibit 8 and reaffirmed its prior decision, denying  
3 petitioner's application for industrial disability retirement. Exhibit 8 was lodged with this Court  
4 on June 9, 1998. The videotape lodged with the Court on June 9, 1998 is the same videotape that  
5 the administrative law judge identified as Exhibit 8 on May 22, 1998, and the same videotape  
6 that respondent Retirement Board viewed on June 9, 1998.

7 The Court has carefully viewed Exhibit 8. In addition, the Court has carefully viewed the  
8 videotapes submitted by petitioner.

9 The weight of the evidence supports the Retirement Board's conclusion that petitioner is  
10 not disabled from the performance of his duties as a deputy sheriff. The Court finds persuasive  
11 the opinions of orthopedist J. Conrad Clifford, M.D. and neurologist Richard A. Cuneo, M.D.,  
12 who found that petitioner does not have any orthopedic or neurologic condition that disables him  
13 from the performance of duty. In light of all the evidence, petitioner's subjective complaints of  
14 problems with balance, unsteadiness, difficulty with gait and lack of confidence in his left lower  
15 extremity are not credible.

16 In addition, the Court rejects petitioner's contention that he is entitled to a disability  
17 pension on the ground that the City has refused to return him to work. The evidence fails to  
18 establish that petitioner has made a good faith effort to return to work.

19 The petition for writ of mandate is denied. Respondent shall recover its costs.

20  
21 DATED: August 25, 1998

22  
23  
24   
25 Judge of the Superior Court  
26  
27  
28